

**UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT**

<b>CITY OF SOUTH BURLINGTON,</b>	:	
<b>Plaintiff</b>	:	
	:	
<b>v.</b>	:	<b>File No. 1:05-CV-230</b>
	:	
<b>TOWLE-WHITNEY ASSOCIATES, INC.</b>	:	
<b>Defendant/Third-Party Plaintiff</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>MASTER METER, INC.,</b>	:	
<b>Third-Party Defendant</b>	:	

**ORDER**

The Magistrate Judge's Report and Recommendation was filed July 16, 2007 (Paper 76). After de novo review and absent objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1). Defendant's motion for summary judgment (Paper 45), plaintiff's cross motion for summary judgment (Paper 49), and third-party defendant's motion for summary judgment (Paper 55) are DENIED.

Defendant's motion for summary judgment (Paper 53) is construed as a supplemental memorandum to its first motion for summary judgment and its memorandum in opposition to plaintiff's cross motion for summary judgment (Papers 45 and 54) and is deemed moot.

Counsel for the parties shall inform the Court, in writing, on or before October 5, 2007, if any discovery remains to be completed.

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 20<sup>th</sup> day of September,  
2007.

/s/ J. Garvan Murtha  
J. Garvan Murtha  
United States District Judge